

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

September 15, 2003

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Davis, Associate Justice and Rios, bailiff.

C042781 In re DAVID L.; HEALTH AND HUMAN SERVICES v. BONNIE S.

Cause called. Christopher Blake, court appointed counsel, argued for appellant. Lilly C. Frawley, Office of County Counsel, argued for respondent. Cause submitted.

At 10:04 a.m., the court recessed. At 10:08 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Robie, Associate Justice.

C040646 THE PEOPLE v. CAGLE

Cause called. Charles M. Bonneau argued for appellant. Matthew Chan, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:30 a.m., the court recessed. At 10:35 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

C041972 CASSIDY V. CASSIDY

Cause called. James B. Carr argued for appellant. Patrick A. Cassidy, respondent, In Pro Per did not appear. Cause submitted.

At 10:50 a.m., the court recessed. At 10:53 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Raye, Associate Justice.

C037736 GARCIA v. DEPARTMENT OF EDUCATION

Cause called. Joanne Lowe argued for appellant. Gaspar Garcia II argued for respondent. Cause submitted.

C038300 GARCIA v. DEPARTMENT OF EDUCATION

Cause called. Gaspar Garcia, II argued for appellant. Joanne Lowe argued for respondent. Cause submitted.

At 11:41 a.m., the court recessed. At 2:01 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Nicholson, Associate Justice.

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**C041864 PACIFIC GAS AND ELECTRIC COMPANY v. DEPT. OF WATER
RESOURCES et al.**

Cause called. Nancy Saracino, Deputy Attorney General, argued and Martin Goyette and Peggy Bernardy appeared only for appellant. Lori R. E. Ploeger argued and Martin S. Schenker and Christopher J. Warner appeared only for respondent. Cause submitted.

At 2:50 p.m., the court recessed. At 2:55 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

C038474 SYKORA et al. v. MAGORIAN et al.

Cause called. Jay-Allen Eisen argued for appellant. Richard Keith Corbin argued for respondent. Cause submitted.

At 3:25 p.m., the court recessed. At 3:27 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Robie, Associate Justice.

C038951 BANKS v. PEREZ

Cause called. Barry B. Banks, In Pro Per as appellant, argued and submitted additional citations. Marjorie E. Manning argued for respondent. Cause submitted.

At 3:27 p.m., the court recessed. At 4:04 p.m., the court reconvened.

C042182 JOHNSON v. AEROJET-GENERAL CORPORATION

Cause called. William C. McNeill III argued and submitted additional citations for appellant. William M. Brown argued and Steve Green appeared only for respondent. Cause submitted.

At 4:35 p.m., the court recessed. At 4:40 p.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

C040675 THE PEOPLE v. JOHNSON

Cause called. Sharon Wrubel, court appointed counsel, argued for appellant. John A. Thawley, Deputy Attorney General, argued for respondent. Cause submitted.

At 5:10 p.m., the court recessed until 9:30 a.m., Tuesday, September 16, 2003.

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- C042867 THE PEOPLE v. JONES (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment reflecting that defendant's conduct credit was awarded pursuant to section 2933.1 and to forward a certified copy of the corrected abstract to the Department of Corrections.
DAVIS, J.
We concur: Blease, Acting P.J.
 Morrison, J.
- C043405 THE PEOPLE v. GUSTA (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Scotland, P.J.
 Sims, J.
- C043718 THE PEOPLE v. MCBRIDE (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Sims, J.
 Nicholson, J.
- C042874 In re JESSICA S. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. DEBRA L. (Not for Publication)**
The order of the juvenile court terminating the parental rights of appellant is reversed, and the matter is remanded to the juvenile court with directions to order DHHS to provide Blackfeet Tribe of the Blackfeet Indian Reservation of Montana with proper notice of the proceedings under the Act. If, after receiving notice under the Act, neither that tribe nor any other identified by appellant indicates the minors are Indian children within the meaning of the Act, then the juvenile court shall reinstate the order terminating parental rights without conducting a new evidentiary hearing pursuant to section 366.26. If, on the other hand, a tribe responds affirmatively, then the court must consider the issue at a new section 366.26 hearing and conduct that hearing pursuant to the procedural and evidentiary requirements of the Act.
DAVIS, J.
We concur: Blease, Acting P.J.
 Hull, J.

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At 9:33 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Kolkey, Associate Justice; Robie, Associate Justice and Meline, bailiff.

C038839 RACICOT v. CALFARM INSURANCE COMPANY
C039769 RACICOT v. CALFARM INSURANCE COMPANY
C040590 RACICOT v. CALFARM INSURANCE COMPANY

Cause called. William Hancock argued for appellant. Arthur Leinwohl argued for respondent. Cause submitted.

At 10:11 a.m., the court recessed. At 10:17 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Kolkey, Associate Justice.

C040242 PHELPS v. MURRAY et al.

Cause called. B.E. Bergesen III argued and Stephen J. Mackey appeared only for appellant. Roger A. Dreyer argued for respondent. Cause submitted.

At 10:54 a.m., the court recessed. At 10:59 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Kolkey, Associate Justice.

C041863 SPX CORPORATION v. DORAIS, as Acting Chief, et al.

Cause called. Bernard H. Masters argued for appellant. Kent D. Harris, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:39 a.m., the court recessed. At 2:00 p.m., the court reconvened with Morrison, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C041912 MARCHBROOK BUILDING COMPANY v. SOUCHEK, etc.

Cause called. Peter M. Rehon argued for appellant. William H. Parish argued for respondent. Cause submitted.

At 2:25 p.m., the court recessed. At 2:26 p.m., the court reconvened.

C041407 GARABEDIAN v. RASSBACH-GARABEDIAN, etc. and DEPARTMENT OF CHILD SUPPORT SERVICES

Cause called. Michael N. Garabedian, appellant argued for himself In Pro Per. Doug Benham argued for claimant-respondent. Judy L. Carver argued for objector-respondent. Cause submitted.

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At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Hull, Associate Justice; Kolkey, Associate Justice and Rios, bailiff.

C037364 THE PEOPLE v. ELLIOTT et al.

Cause called. Brett H. Morgan, Deputy Attorney General, argued for appellant. Deanna F. Lamb, court appointed counsel, argued for respondent and submitted additional citations. Cause submitted.

At 10:02 a.m., the court recessed. At 10:05 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

C040776 WHITE v. CITY OF STOCKTON et al.

Cause called. Michael Babitzke argued for appellant. Douglas H. Calkins argued for and Sheryle L. Sparks appeared only for respondents. Cause submitted.

At 10:29 a.m., the court recessed. At 10:33 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C041992 In re EMILY C.; DEPARTMENT OF SOCIAL SERVICES v. JAMES M.

Cause called. Linda Conrad, court appointed counsel, argued for appellant and submitted additional citations. David A. Hamilton, county counsel, argued for respondent. Cause submitted.

At 10:52 a.m., the court recessed. At 10:56 a.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

C040485 THE PEOPLE v. TILEHKOOR

Cause called. Allen G. Weinberg argued for appellant. Alan Ashby, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:22 a.m., the court recessed. At 2:01 p.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

C041362 In re CASEY B.; THE PEOPLE v. CASEY B.

Cause called. Allan C. Messarra, court appointed counsel, argued for appellant. Jamie A. Scheidegger, Deputy Attorney General, argued for respondent. Cause submitted.

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At 2:10 p.m., the court recessed. At 2:17 p.m., the court reconvened with Scotland, Presiding Justice; Morrison, Associate Justice; and Hull, Associate Justice.

C042311 FRIENDS OF FIVE LAKES et al. v. COUNTY OF PLACER and CALDWELL
Cause called. Michael Graf argued for appellant. James G. Moose argued for RPI-respondent Caldwell. Scott H. Finley argued for defendant-respondent County of Placer. Cause submitted.

At 2:50 p.m., the court recessed. At 2:54 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C042211 THE PEOPLE v. GANDY
Cause called. Robert W. Gehring, court appointed counsel, argued for appellant. J. Robert Jibson, Deputy Attorney General, argued for respondent. Cause submitted.

C043095 RAHIMI v. COUNTY OF SACRAMENTO et al.
Cause called. Mehdi Rahimi, argued In Pro Per as appellant. Keith D. Chidlaw, argued for defendant-respondent JRC. Douglas W. Brown argued for defendant-respondent County of Sacramento. Cause submitted.

At 3:09 p.m., the court recessed. At 3:13 p.m., the court reconvened with Blease, Associate Justice; Kolkey, Associate Justice; and Robie, Associate Justice.

C041404 THE PEOPLE v. JONES
Cause called. Victor S. Haltom argued for appellant. Jesse Witt, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:38 p.m., the court recessed until 9:30 a.m., Thursday, September 18, 2003.

C039577 THE PEOPLE v. WINTER (Not for Publication)
The judgment is affirmed.
MORRISON, Acting P.J.
We concur: Kolkey, J.
Robie, J.

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- C041046 THE PEOPLE v. CORONA (Not for Publication)**
The judgment is modified... As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.
HULL, J.
We concur: Davis, Acting P.J.
 Robie, J.
- C042555 THE PEOPLE v. MacPHEE (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment to reflect these modifications and to forward it to the Department of Corrections.
HULL, J.
We concur: Davis, Acting P.J.
 Robie, J.
- C041845 SEYMON v. EASI, INC. Etc. et al. (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Raye, J.
 Hull, J.

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At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Kolkey, Associate Justice; Robie, Associate Justice and Facey, bailiff.

- C042373 NG and TROPEANO, INC. et al. v. CHOI et al.**
Cause called. Daniel L. Baxter argued and David A. Frenznick appeared only for appellant. John R. Hargreaves argued for respondent. Cause submitted.

At 10:10 a.m., the court recessed until 9:30 a.m., Friday, September 19, 2003.

- C033854 THE PEOPLE v. KINEY (Not for Publication)**
The judgment is reversed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Davis, J.

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- C042996 THE PEOPLE v. KAUFMAN (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Scotland, P.J.
Robie, J.
- C043647 THE PEOPLE v. OBLAND (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
Raye, J.
- C042679 In re B.J. et al.; DEPARTMENT OF HEALTH & HUMAN SERVICES
v. SONJA L. et al. (Not for Publication)**
The orders of the juvenile court are affirmed.
BLEASE, Acting P.J.
We concur: Davis, J.
Hull, J.

September 19, 2003

At 9:35 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Davis, Associate Justice; Raye, Associate Justice; Robie, Associate Justice and Facey, bailiff.

- C042641 CALIFORNIA INSURANCE GUARANTEE ASSOCIATION etc. v. WORKERS' COMPENSATION APPEALS BOARD et al.**
Cause called. Richard E. Guilford argued for appellants. Jay-Allen Eisen argued and Thomas L. Plumb appeared only for respondent. Cause submitted.

At 10:05 a.m., the court recessed. At 10:07 a.m., the court reconvened.

- C041699 SHARP CORONADO HOSPITAL v. BONTA, as Director, etc.**
Cause called. Barbara Haukedalen, deputy attorney general, argued for appellant. Patric Hooper argued for respondent. Cause submitted.

At 10:40 a.m., the court recessed. At 10:45 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

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C040463 SAN JOAQUIN MOTEL AND HOTEL PROPERTY OWNERS ASSOCIATION v. CITY OF STOCKTON

Cause called. Rick W. Jarvis argued for appellant. Frank Weiser argued for respondent. Cause submitted.

At 10:52 a.m., the court recessed. At 11:00 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Kolkey, Associate Justice.

C041760 THE PEOPLE v. DOUGLASS

Cause called. David Kay, court appointed counsel, argued for appellant. Brook Bennigson, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:15 a.m., the court recessed. At 11:23 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C031821 MOORE et al. v. STATE BOARD OF CONTROL

Cause called. Noreen P. Skelly, Deputy Attorney General, argued for appellant. Jay-Allen Eisen argued and Michael J. Siegel appeared only for respondent. Cause submitted.

At 11:40 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

C041233 THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY et al. v. THE PUBLIC UTILITIES COMMISSION and UNITED TRANSPORTATION UNION

Cause called. Joseph P. Mascovich argued for petitioners. Carrie Pratt argued for respondent, Public Utilities Commission. Frederick L. Nelson argued for real party in interest, Hildebrand McLeod & Nelson. Cause submitted.

At 2:54 p.m., the court recessed. At 2:58 p.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C033353 MORRIS v. SOUTHERN PACIFIC TRANSPORTATION COMPANY

Cause called. Paul Hoskins argued for appellant. Joseph P. Mascovich argued for respondent. Cause submitted.

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At 3:29 p.m., the court recessed. At 3:34 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C042150 RINKER et al. v. SIERRA COUNTY SHERIFF'S DEPT. et al.

Cause called. John P. Henderson argued for appellants. Terence J. Cassidy argued for respondents. Cause submitted.

At 3:52 p.m., the court recessed. At 3:58 p.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Kolkey, Associate Justice.

C040979 THE PEOPLE v. HICKMAN

Cause called. Robert Platt, court appointed counsel, argued for appellant. Alan Ashby, Deputy Attorney General, argued for respondent. Cause submitted.

At 4:11 p.m., the court recessed until Monday, September 22, 2003, at 9:30 a.m.

C040756 POPE v. SAN JUAN UNIFIED SCHOOL DISTRICT

(Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Davis, Acting P.J.

Robie, J.

C042990 In re EMILY M. et al.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. RUDOLPH M. et al.

(Not for Publication)

The orders of the juvenile court are affirmed.

NICHOLSON, Acting P.J.

We concur: Raye, J.

Hull, J.

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**C043787 In re NATHANIEL L.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. ALICIA P.**

**C044083 In re NATHANIEL L.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. ALICIA P.**

BY THE COURT:

On the court's own motion, the above cases are consolidated. The cases are ordered consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

SIMS, Acting P.J.